UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/070,528	12/02/2002	Peter Planki	2406400-2	7215

26263 7590 05/15/2007
SONNENSCHEIN NATH & ROSENTHAL LLP
P.O. BOX 061080
WACKER DRIVE STATION, SEARS TOWER
CHICAGO, IL 60606-1080

EXAMINER	
LOHN, JOSHUA A	
ART UNIT	**PAPER NUMBER**
2114	

MAIL DATE	DELIVERY MODE
05/15/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/070,528	PLANKI ET AL.	
	Examiner	Art Unit	
	Joshua A. Lohn	2114	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *28 February 2007*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-17* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-17* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *02 December 2002* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

NON-FINAL REJECTION

Response to Arguments

Applicant's arguments filed 2/28/2007 have been fully considered but they are not persuasive. The examiner feels that Atkinson sufficiently discloses the at least two operational parameters and the at least two environmental parameters, as is shown in the rejection that follows.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-5, 7, 9, and 16 are rejected under 35 U.S.C. 102(e) as being anticipated by Atkinson, United States Patent, 6,029,119, filed January 16, 1996.

As per claim 1, Atkinson discloses a method for an automated monitoring and controlling the operational performance of a computer or processing system for detecting at least two operational parameters of individual components (Atkinson, col. 1, lines 36-39, and col. 6, lines 41-43, where example operational parameters are the fan speed and fast charging status) and/or at least two environmental parameters of environmental components of the computer or processor system (Atkinson, col. 3, line 16, through col. 4, line 15, where the indirect inputs act as the environmental components, and col. 6, lines 1-35 and fig. 5B, where the environmental

parameters include air flow obstruction, peripheral components and temperature states). Atkinson also teaches comparing the detected operational parameters and environmental parameters with predetermined limit values (Atkinson, col. 4, lines 35-51, col. 5, lines 1-18, and figures 3 and 4); determining, if predetermined limit values are exceeded or fallen below of by one or several of said detected operational parameters and environmental parameters (Atkinson, col. 4, lines 52-62). Atkinson also discloses determining an operational event on basis of said limit values that have been exceeded or fallen below of; selecting a reaction corresponding to said determined operational event from a number of predetermined reaction patterns, wherein said number of predetermined reaction patterns includes at least one reaction that controls at least one of the individual components being monitored; and transmitting a control command to alter the operational performance corresponding to said selected reaction to said computer or processor system (Atkins, col. 4, lines 52-62, and col. 6, lines 36-54, where the control command executes the cooling options deemed necessary, which includes the reaction control of a monitored component like the fan, Atkins, col. 1, lines 40-41).

As per claim 2, Atkinson discloses that the detected operational parameters or environmental parameters are absolute measured values as well as the temporal change of said measured value (Atkinson, col. 3, lines 16-17, and col. 3, lines 66-67).

As per claim 3, Atkinson discloses that besides the transmission of the control command corresponding to the selected reaction also a corresponding information signal is transmitted (Atkinson, col. 3, lines 16-19, where the interrupt alarm is an informational signal).

As per claim 4, Atkinson discloses a device for an automated monitoring and controlling the operational performance of a computer or processor system with first sensors for detecting at least two operational parameters of individual components of said computer or processor system (Atkinson, col. 1, lines 36-39, and col. 6, lines 41-43, where example operational parameters are the fan speed and fast charging status); and/or second sensors for detecting at least two environmental parameters of said computer or processor system (Atkinson, col. 3, line 16, through col. 4, line 15, where the indirect inputs act as the environmental components, and col. 6, lines 1-35 and fig. 5B, where the environmental parameters include air flow obstruction, peripheral components and temperature states); a monitoring unit for comparing said detected operational and/or environmental parameters with limit values stored in a first storage as well as for detecting, if one or several limit values are being exceeded or fallen below of (Atkinson, col. 4, line 35, through col. 5, line 18, and figures 3 and 4). Atkinson also discloses means for generating a determined operational event message on basis of said limit values that have been exceeded or fallen below of (Atkinson, col. 5, lines 13-24, where the event message is the output from the table), and a control unit for receiving said operational event message as well as for selecting and transmitting a control command corresponding to said operational event message to said computer and processor system from a storage containing a number of predetermined reaction patterns (Atkinson, col. 6, lines 36-54, where control commands inherently exist in the ability to adjust the system parameters as indicated in the response table of figure 4), wherein said number of predetermined reaction patterns includes at least one control command that controls at least one of the individual components being monitored (Atkinson, col. 5, lines15-16,

where the fan is altered as a reaction pattern, and is also a component that is monitored for its status, col. 1, lines 39-41).

As per claim 5, Atkinson discloses that said detected operational parameters or environmental parameters are absolute measured values as well as the temporal changes of said measured value (Atkinson, col. 3, lines 16-17, and col. 3, lines 66-67).

As per claim 7, Atkinson further discloses the device of claim 4, characterized in that said device comprises a transmission means for transmitting a message corresponding to said operational event message and/or to said transmitted control command (Atkinson, col. 3, lines 16-24, where the interrupt alarm is a message corresponding to the event).

As per claim 9, Atkinson further discloses the device of claim 5, characterized in that said device comprises a transmission means for transmitting a message corresponding to said operational event message and/or to said transmitted control command (Atkinson, col. 3, lines 16-24)

As per claim 16, Atkindson discloses a method for an automated monitoring and controlling of the operational performance of a computer or processor system, comprising the following steps: (a) detecting at least two operational parameters of individual components and/or at least two environmental components of the computer or processor system, wherein said operational parameters and said environmental parameters are quantitatively measurable parameters (Atkinson, col. 1, lines 36-39, and col. 6, lines 41-43, where example operational

parameters are the fan speed and fast charging status; Atkinson, col. 3, line 16, through col. 4, line 15, where the indirect inputs act as the environmental components, and col. 6, lines 1-35 and fig. 5B, where the environmental parameters include air flow obstruction, peripheral components and temperature states, where these parameters are measured to determine operating states, figures 5 and 6); (b) comparing the detected operational parameters and/or environmental parameters with predetermined limit values (Atkinson, col. 4, lines 35-51, col. 5, lines 1-18, and figures 3 and 4); (c) determining, if predetermined limit values are exceeded or fallen below of by one or several of said detected operational parameters and environmental parameters (Atkinson, col. col. 4, lines 52-62); (d) determining an operational event on basis of a combined evaluation of said limit values that have been exceeded or fallen below of; (e) selecting a reaction corresponding to said determined operational event from a number of predetermined reaction patterns; and (f) transmitting a control command to alter the operational performance corresponding to said selected reaction to said computer or processor system (Atkinson, col. 4, lines 52-62, and col. 6, lines 36-54, where the control command executes the cooling options as deemed necessary to result in the predetermined reaction).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 6 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Atkinson in view of Skeie, United States Patent number 5,500,940, published March 19, 1996.

As per claim 6, Atkinson fails to disclose the addition of an optical or acoustic output means for outputting a message.

Skeie discloses a device that comprises an optical or acoustic output means for outputting a message corresponding to an operational event message and/or transmitted control command (Skeie, col. 6, lines 63-67, where user notification would inherently be an optical or acoustic output).

It would have been obvious to one skilled in the art at the time of the invention to include the user notification means of Skeie in the invention of Atkinson.

This would have been obvious because Atkinson is interested in the effects of escalating problems and how to repair them (Atkinson, figure 4). Atkinson does not mention any aspect of how the detection and repair would affect the user. Skeie also discloses an interest in escalating problems in a computer system (Skeie, col. 6, lines 8-26). Skeie further states the importance of data availability to the user (Skeie, col. 6, lines 53-55). The solutions disclosed by Atkinson would alter data availability through solutions in a similar way to the failures of Skeie. It would have been obvious to give the user the important availability information, provided by Skeie, in

the system of Atkinson to allow the user to be aware of any potential problems form the solutions provided by Atkinson.

As per claim 10, Atkinson and Skeie further disclose the device of claim 6, characterized in that said device comprises a transmission means for transmitting a message corresponding to said operational event message and/or to said transmitted control command (Atkinson, col. 3, lines 16-24).

Claims 8, 11, 13, 14, and 17 rejected under 35 U.S.C. 103(a) as being unpatentable over Atkinson in further view of Tobita et al., United States Patent number 5,781,434, published July 14, 1998.

As per claims 8, 11, 13, and 14, Atkinson fails to disclose the limitation of the device being separate from the monitored system.

Tobita discloses a device that is part of a computer which is separate from the computer or processor system to be monitored (Tobita, col. 8, line 53 through col. 9, line 13, and figure 1, where the monitoring device computer is the service processor board, element 10, and the processor system to be monitored in the system board, element 30).

It would have been obvious to one skilled in the art at the time of the invention to use the separate monitoring system of Tobita in the invention of Atkinson.

This would have been obvious because Atkinson does not require that the management system be part of the processor system being monitored (Atkinson, col. 2, lines 50-51), and Tobita discloses a system where this separation provides added benefit. The invention of Atkinson would have benefited from the separation of Tobita, because the invention of Tobita

provides for similar levels of monitoring (Tobita, col. 8, line 53 through col. 9, line 13), while adding the ability to allow for remote access and restarting of the failed system board (Tobita, col. 9, lines 28-57). This ability to restart a failing system adds benefit to the system of Atkinson, which can only limit or shut down a failing processor, not successfully repair it.

As per claim 17, Atkinson fails to disclose the limitation of the device being separate from the monitored system and allowing system re-activation.

Tobita discloses the device as claimed in claim 4, wherein the device operates separately from the computer or processor system monitored by the device (Tobita, col. 8, line 53 through col. 9, line 13, and figure 1, where the monitoring device computer is the service processor board, element 10, and the processor system to be monitored in the system board, element 30), such that the computer or processor system can be re-activated by the device after the computer or processor system has been shut down (Tobita, col. 9, lines 27-57, where the restart inherently includes the shut down and re-activation).

It would have been obvious to one skilled in the art at the time of the invention to use the separate monitoring system of Tobita in the invention of Atkinson.

This would have been obvious because Atkinson does not require that the management system be part of the processor system being monitored (Atkinson, col. 2, lines 50-51), and Tobita discloses a system where this separation provides added benefit. The invention of Atkinson would have benefited from the separation of Tobita, because the invention of Tobita provides for similar levels of monitoring (Tobita, col. 8, line 53 through col. 9, line 13), while adding the ability to allow for remote access and restarting of the failed system board (Tobita,

col. 9, lines 28-57). This ability to restart a failing system adds benefit to the system of Atkinson, which can only limit or shut down a failing processor, not successfully repair it.

Claims 12 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Atkinson and Skeie in further view of Tobita.

As per claims 12 and 15, Atkinson and Skeie fail to disclose the limitation of the device being separate from the monitored system.

Tobita discloses a device that is part of a computer which is separate from the computer or processor system to be monitored (Tobita, col. 8, line 53 through col. 9, line 13, and figure 1, where the monitoring device computer is the service processor board, element 10, and the processor system to be monitored in the system board, element 30).

It would have been obvious to one skilled in the art at the time of the invention to use the separate monitoring system of Tobita in the invention of Atkinson and Skeie.

This would have been obvious because Atkinson does not require that the management system be part of the processor system being monitored (Atkinson, col. 2, lines 50-51), and Tobita discloses a system where this separation provides added benefit. The invention of Atkinson would have benefited from the separation of Tobita, because the invention of Tobita provides for similar levels of monitoring (Tobita, col. 8, line 53 through col. 9, line 13), while adding the ability to allow for remote access and restarting of the failed system board (Tobita, col. 9, lines 28-57). This ability to restart a failing system adds benefit to the system of Atkinson and Skeie, which can only limit or shut down a failing processor, not successfully repair it.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joshua A. Lohn whose telephone number is (571) 272-3661. The examiner can normally be reached on M-F 8-4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Scott Baderman can be reached on (571) 272-3644. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Joshua A Lohn
Patent Examiner
Art Unit 2114